SYNOPSIS OF CRIMINAL OPINIONS IN THE MISSISSIPPI COURT OF APPEALS HANDED DOWN APRIL 20, 2010

Joiner v. State, 2009-CA-00222-COA (April 20, 2010)

Crime: PCR - Felony Fleeing from a LEO and Strong Armed Robbery

Sentence: 4 years for the felony fleeing and a consecutive 15 years for the robbery as an habitual

offender under §99-19-81

Court: Lafayette Circuit Court

Trial Judge: Hon. Andrew K. Howorth

Appellant Attorney: James D. Minor Appellee Attorney: Lisa Lynn Blount District Attorney: Ben Creekmore

Disposition: Motion for Post-conviction Relief Denied

Lee, P.J., for the Court, King, C.J., Myers, P.J., Irving, Griffis, Barnes, Ishee, Roberts and Maxwell, JJ., Concur.

ISSUES: (1) he was improperly charged as a habitual offender; (2) he was improperly sentenced as a habitual offender; and (3) he was denied effective assistance of counsel.

FACTS: Albert Joiner, Jr., pled guilty to felony fleeing from a law enforcement officer and strong armed robbery. He was sentenced as a habitual offender to 19 years without parole. Joiner filed a motion for post-conviction relief, which was denied by the trial court. Joiner claimed that the indictment failed to notify him that he was being charged as a habitual offender and that his attorney was ineffective for allowing him to plead.

HELD: As part of Joiner's plea, Count II of the indictment, possession of a weapon by a convicted felon, was dismissed. Count II lists five felonies with which Joiner had been previously convicted. Joiner's claim that since Count II was dismissed, the indictment no longer contained the necessary information to charge him as a habitual offender is without merit. He was originally charged as a habitual offender under §99-19-83. The reduction was explained during his plea. Because the reduced sentence was part of Joiner's plea bargain, we find that the record shows that Joiner was aware of his eligibility for sentencing as a habitual offender.

==> Joiner was not denied effective assistance of counsel for allowing him to plead as a habitual offender without supporting proof of his prior felonies. Joiner originally faced three charges and a possible life sentence as a habitual offender. His attorney negotiated a deal wherein the armed-robbery charge was reduced to strong armed robbery and the charge of felon in possession of a deadly weapon was dismissed. His attorney also negotiated a reduced sentence of nineteen years without parole rather than a life sentence under §99-19-83.

To read the full opinion, click here:

http://www.mssc.state.ms.us/Images/HDList/..%5COpinions%5CCO62470.pdf

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